

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 2927 – SB 3049

May 11, 2010

SUMMARY OF AMENDMENTS (017132, 018387, 018395, 018389):

Amendment 017132 deletes the language of the original bill. Authorizes the Commissioners of Revenue and ECD to allocate up to \$80 million in additional investment tax credits to the TNInvestco program. Prohibits the total amount of tax credits from exceeding \$200 million. Requires the Commissioners of Revenue and ECD and the Tennessee Technology Development Corporation to conduct an annual review of each TNInvestco at the end of each fiscal year. Authorizes a penalty equal to 80 percent of any distribution from the TNInvestco's investment if the business fails to locate its headquarters and 60 percent of all employees within Tennessee. Authorizes a penalty of \$250,000 paid to the Rural Opportunity Fund if areas of noncompliance are not cured by a TNInvestco company within one year of the original finding. Authorizes the Commissioners of Revenue and ECD to contract for legal services. Requires the Commissioners of Revenue and ECD in consultation with the State Treasurer to create a score card with objectives used to measure the TNInvestco's investment strategy. Requires a copy of each annual report to be posted on the TNInvestco website. Requires ECD to provide the Comptroller of the Treasury with a copy of written findings made as a result of annual report reviews when requested by the Comptroller. Requires TNInvestcos to maintain a website providing professional biographical information on each member of executive management and its availability of capital. Requires ECD to maintain a website providing general information about TNInvestco and links to each qualified TNInvestco. Requires each qualified TNInvestco to keep a link to ECD on its company website.

Amendment 018387 prohibits qualified businesses from having financial or franchise relationships with a TNInvestco or TNInvestco affiliate prior to the first qualified investment.

Amendment 018395 requires qualified businesses to meet the current definition of a "qualified business" prior to each qualified investment by any TNInvestco. Requires ECD to respond within 10 business days to a TNInvestco's request for a written determination that a proposed investment will qualify as a quality investment. Failure to notify a TNInvestco within 10 business days will be deemed a denial by ECD.

Amendment 018389 designates only a TNInvestco applicant's proposed investment strategy and prior investment history as confidential tax information.

FISCAL IMPACT OF ORIGINAL BILL:

MINIMAL

HB 2927 – SB 3049

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Increase State Revenue – Net Impact – Exceeds \$7,000,000/Over Time/Rural Opportunity Fund

\$20,000/Economic and Community Development/Recurring

**Increase State Expenditures –
\$20,000/Economic and Community Development/Recurring**

Other Fiscal Impact – The authorization of investment tax credits would cause a decrease of revenue to the General Fund of \$80,000,000 unless such revenue is replaced by another source of revenue. This total decrease would occur over a nine-year period (FY11-12 through FY19-20). However, the first \$80,000,000 of profit share percentage distributions made from TNInvestcos to the state shall be allocated to the General Fund for the purpose of offsetting any such decrease that would occur due to the authorization of investment tax credits. As a result, the net impact to the General Fund is not significant. Any subsequent distributions and additional tax revenue generated from this act will then be allocated to the Rural Opportunity Fund and used to further support the state's economic development efforts.

A more precise cost estimate is not possible because the Department of Economic and Community Development and the Department of Revenue have not provided any information to assist in the preparation of this fiscal note.

Assumptions applied to amendments:

- According to ECD, the Department will not require additional positions to administer the program. Including two additional companies in the TNInvestco program can be accommodated within existing resources without an increased appropriation or reduced reversion.
- Gross premium tax revenue is deposited to the General Fund.
- Given the aggregate maximum of investment tax credits is established at \$200,000,000, and that such tax credits are to be utilized over a nine-year period, it is estimated that gross premium tax revenue to the General Fund would decrease by \$200,000,000 over a nine-year period (from FY11-12 through FY19-20) unless replaced by another source of revenue.
- According to DOR, the capital investment ventures undertaken by the TNInvestcos will produce at least a 12 percent rate of return.
- Participating investors are required to pay an annual certification fee of \$5,000 each year (or \$10,000 if paid after April 1 of each year) resulting in an increase in state revenue of \$20,000. There will be a corresponding increase in state expenditures to perform audits and legal services.

- Based on information previously provided by DOR, profit share percentage distributions from TNInvestcos to the state are expected to exceed \$87,000,000 over time. The first \$80,000,000 of such distributions will be allocated to the General Fund; an amount estimated to exceed \$7,000,000 will be allocated to the Rural Opportunity Fund.
- Requiring annual reports to be posted on the TNInvestco website can be accommodated within existing department resources without an increase appropriation or reduced reversion.
- Requiring ECD to provide the Comptroller with a copy all findings occurring from each TNInvestco's annual report can be accommodated within existing department resources without an increase appropriation or reduced reversion.
- Requiring ECD maintain a website with general information about each TNInvestco can be accommodated within existing department resources without an increase appropriation or reduced reversion.
- Requiring ECD to determine if an investment proposed by a TNInvestco is a qualified investment and to respond in writing within 10 days will can accommodated within existing department resources without an increase appropriation or reduced reversion.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "White".

James W. White, Executive Director

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